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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78260; File No. SR-NYSEArca-2016-95]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the NYSE Arca Options Fee Schedule

July 8, 2016

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 1, 2016, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (“Fee Schedule”). The Exchange proposes to implement the fee change effective July 1, 2016. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify certain fees charged for Options Trading Permits (each an "OTP") and to decrease the fee charged to registered floor personnel who are not subject to an OTP Fee. The Exchange proposes to implement the changes effective July 1, 2016.

Currently, the Exchange charges Floor Brokers, Office, and Clearing participants a monthly fee of \$1,000 for the first OTP and \$250 per month for each additional OTP.<sup>3</sup> The Exchange proposes to reduce the monthly OTP fee charged to Floor Brokers to \$500, which is consistent with trading permit fees charged to similarly situated market participants on other options markets.<sup>4</sup> The Exchange would continue to charge Office and Clearing participants a monthly OTP Fee of \$1,000.

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<sup>3</sup> See Fee Schedule, available here, [https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE\\_Arca\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf).

<sup>4</sup> See NYSE Amex Options Fee Schedule, Section III.A. (Monthly ATP Fees), available here, [https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE\\_Amex\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf) ([charging Floor Brokers monthly fee of \\$500 per ATP](#)).

In addition, the Exchange proposes to eliminate the reduced (\$250) monthly for any of these participants and to delete the language stating that additional OTPs utilized by a Floor Broker would not enable a second Floor Broker to operate on the Floor. As an initial matter, Office and Clearing participants would rarely, if ever, require a second OTP, so eliminated the reduced \$250 would have little to no practical impact on these participants. Regarding Floor Brokers, historically each Floor Broker could only log in to a single Floor Broker Order Capture Device (“FBOCD”), which provided access to the Exchange-sponsored Floor Broker Order Capture System.<sup>5</sup> This limitation was required because the Floor Broker’s log-in was used to populate “Executing Broker” fields within the FBOCD system. Thus, in order to conduct business at various locations on the Floor, Floor Brokers needed to be able to log in to multiple FBOCD and therefore would request additional OTPs. However, these additional OTPs were assigned to the same individual Floor Broker and were not used to provide for a second Floor Broker to operate on the Floor. In recent years, however, the Exchange has upgraded and modified its System such that each log-in permits Floor Brokers access to the System from any FBOCD, whether located in a Floor Broker’s booth or a general access device located on the Trading Floor. As a result of this improved remote access, Floor Brokers no longer require additional OTPs to conduct business on the Floor. Therefore, the Exchange proposes to eliminate the provision and the associated reduced Fee.

The Exchange also proposes to reduce the Options Floor Access Fee (“Access Fee”) that is currently charged to registered personnel who work on the Floor, but do not require an OTP as they do not execute trades. The Exchange proposes to reduce the monthly Access Fee from \$130

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<sup>5</sup> The FBOCD is used by Floor Brokerage operations to comply with the requirements of Rule 6.67, Order Format and System Entry Requirements, namely, the systemization of order details and electronic tracking of all events in the life of an order, up to and including cancellation or execution.

to \$125, which is consistent with fees charged by other options exchanges for similarly situated floor personnel.<sup>6</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>8</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that modifying the OTP Fee for Floor Brokers is reasonable, equitable, and not unfairly discriminatory because the reduced fee would apply to all Floor Brokers who, unlike other market participants (i.e., Office and Clearing Participants), are restricted to conduct business only on a manual basis on the Trading Floor. The Exchange believes that the proposed changes would encourage competition, including by reducing the overhead costs for Floor Brokers so that they may conduct a more competitive business attracting manual orders to the Exchange, which additional volume and liquidity would benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery. Further, because Office and Clearing Participants rarely if ever require a second OTP, the proposed removal of the reduced (\$250) fee would have little to no impact on them.

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<sup>6</sup> See supra n. 5 [sic], NYSE Amex Options Fee Schedule, Section III.A. (Floor Access Fee) (charging \$125 per month for all registered Floor personnel that do not pay Monthly ATP Fees).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4) and (5).

Additionally, the proposed fee changes is [sic] reasonable because it is similar to trading permit fees charged by another options exchange to similarly situated market participants.<sup>9</sup>

The Exchange also believes that the proposed modification in the Access Fees is reasonable, equitable, and not unfairly discriminatory as the Access Fee is charged to all registered personnel that operate on the Floor but do not execute transactions. The proposed fee is equitable and not discriminatory as it applies equally to all similarly situated individuals. Additionally, the proposed fee is reasonable because it is similar to fees charged by another options exchange to similarly situated floor personnel.<sup>10</sup>

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>11</sup> the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed changes would encourage competition, including by reducing the overhead costs for Floor Brokers so that they may conduct a more competitive business attracting manual orders to the Exchange, which would make the Exchange a more competitive venue for, among other things, order execution and price discovery.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule

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<sup>9</sup> See supra n. 5 [sic].

<sup>10</sup> See supra n. 7 [sic].

<sup>11</sup> 15 U.S.C. 78f(b)(8).

change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>12</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>13</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>14</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

<sup>14</sup> 15 U.S.C. 78s(b)(2)(B).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-NYSEArca-2016-95 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-NYSEArca-2016-95. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-NYSEArca-2016-95, and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).



